



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/933,528	08/20/2001	Christophe Person	LXGN-00104	8324

7590 04/13/2006

C. Steven McDaniel, Esq.  
McDaniel & Associates, P.C.  
P.O. Box 2244  
Austin, TX 78768-2244

EXAMINER
----------

BRUSCA, JOHN S

ART UNIT	PAPER NUMBER
----------	--------------

1631

DATE MAILED: 04/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notice of Non-Compliant  
Amendment (37 CFR 1.121)**

Application No.

09/933,528

Examiner

John S. Brusca

Applicant(s)

PERSON, CHRISTOPHE

Art Unit

1631

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 03 March 2006 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other \_\_\_\_\_.
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other \_\_\_\_\_.
- ☐ 3. Amendments to the drawings:
- ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other \_\_\_\_\_.
- ☒ 4. Amendments to the claims:
- ☐ A. A complete listing of all of the claims is not present.
  - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☒ E. Other: See Continuation Sheet.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):  
\_\_\_\_\_

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

**TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:**

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

**Extensions of time** are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

**Failure to timely respond** to this notice will result in:

**Abandonment** of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

**Non-entry** of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Legal Instruments Examiner (LIE), if applicable

Telephone No.

Continuation of 4(e) Other: Claims 10-15 and 17 were cancelled in the amendment filed 02 February 2005, however the amendment filed 03 February 2006 improperly includes the text of the cancelled claims and incorrectly lists their status as either original or previously amended. In the letter mailed 03 February 2006 the applicants were explicitly required to respond with only a single copy of the claims. The applicants responded on 03 March 2006 with a response with two listings of the claims, which comprised remarks concerning support for the claim amendments between the two copies. The applicants might be attempting to follow prior Office practice requiring clean and marked up copies of amended claims. However, this practice was abolished by amendment of 37 CFR 1.121 effective 30 July 2003 and the submission would have been improper even under the practice prior to the revision to 37 CFR 1.121. Registered practitioners are expected to have an understanding of the requirements of 37 CFR 1.121, which requires a single marked up copy of the claims with appropriate status identifiers that begins on a new page. The applicants are warned that any further responses that are not in complete compliance with 37 CFR 1.121 will be considered non responsive without exception. Should the applicants have questions concerning how to comply with Office policies, they are invited to contact the examiner prior to preparation of their response so that future prosecution can be conducted without avoidable delays due to errors by the applicants.

*John S. Brusca 10 April 2006*

**JOHN S. BRUSCA, PH.D**  
**PRIMARY EXAMINER**